

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

Stephen P. Kelly,

Case No. 23-cv-3635 (JWB/DJF)

Plaintiff,

v.

ORDER

Jill Phillips et al.,

Defendants.

This matter is before the Court on Mr. Kelly's Motion to Reinstate Case (ECF No. 33) and Motion for Leave to File an Amended Complaint (ECF No. 34) (together, "Motions"). In his Motion to Reinstate Case, Mr. Kelly states that he believes this matter may have been dismissed and makes the following requests of the Court: (1) to reinstate and reopen this matter if it has been closed; (2) to allow him to file an amended civil complaint with financial damages; (3) to reschedule the pretrial scheduling conference and permit him to attend by telephonic means; (4) to allow him to attend all future hearings and conferences by telephonic means; and (5) to award him monetary relief for the hardship of being forced to file this action (*see* ECF No. 33 at 3, 6). In his Motion for Leave to File an Amended Complaint, Mr. Kelly seeks the Court's leave to file an amended complaint within 30 days and further requests: (1) a rescheduling of the pretrial scheduling conference; and (2) an award of monetary relief on his underlying claims (*see* ECF No. 34 at 4-5).

As a threshold matter, pursuant to Local Rule 7.1(a), before filing any motion on the Court's docket, Mr. Kelly must first meet and confer with Defendants' counsel to determine whether Defendants object to the motion. The meeting does not need to take place in person; he

may meet with Defendants by videoconference or telephone. When he subsequently files a motion, he must file a meet and confer statement along with the motion indicating whether Defendants object. Mr. Kelly has failed to comply with these requirements for both Motions at issue here and his failure to do so is grounds for denial.

Moreover, Mr. Kelly's request to reinstate this matter is denied as unripe because it has not been dismissed. Mr. Kelly's requests to reschedule the pretrial conference and to appear by telephone at all future hearings are denied for the reasons previously stated in the Court's July 12, 2024 Order (ECF No. 32 at 2). His request for payment of litigation costs is denied as moot because the Court has already granted his IFP Application (*see* ECF Nos. 2, 7). To the extent that he requests additional reimbursement of costs, that request is denied.

Furthermore, Mr. Kelly's request for leave to file an amended complaint is not compliant with Local Rule 15.1. To obtain the Court's leave to file an amended complaint, Mr. Kelly first must prepare a proposed amended complaint that is a self-contained document including all his allegations and claims, without reference to any other pleading. *See* L.R. 15.1. He must serve Defendants with a copy of his proposed amended complaint and then meet and confer with Defendants to determine whether they object to its filing. Thereafter, Mr. Kelly must file a motion for leave to amend that includes: (1) a copy of his proposed amended complaint, attached as an exhibit to the motion; (2) a statement explaining how his amended complaint differs from the original complaint; and (3) a meet and confer statement indicating whether Defendants object to his motion to amend. *See* LRs 7.1, 15.1. The Court denies Mr. Kelly's request for leave to file an amended complaint without prejudice. He may bring another motion to amend, but to do so successfully he must comply with the above-stated requirements.

Finally, the Court denies Mr. Kelly's request for financial damages without prejudice. He must incorporate any new request for damages into his proposed amended complaint.

ORDER

Based on the foregoing, and on all of the files, records, and proceedings herein, **IT IS HEREBY ORDERED THAT** Mr. Kelly's Motion to Reinstate Case (ECF No. [33]) and Motion for Leave to Amend Complaint (ECF No. [34]) are **DENIED** as follows:

1. Mr. Kelly's request to reinstate this case is **DENIED AS UNRIPE**;
2. Mr. Kelly's requests to reschedule the pretrial conference and to appear at all future hearings telephonically are **DENIED**;
3. Mr. Kelly's request for payment of litigation costs is **DENIED AS MOOT** to the extent he seeks reimbursement of court fees in this matter, and **DENIED** to the extent he seeks additional reimbursement of costs;
4. Mr. Kelly's request for leave to file an amended complaint is **DENIED WITHOUT PREJUDICE**; and
5. Mr. Kelly's request for financial damages is **DENIED WITHOUT PREJUDICE**.

Dated: July 16, 2024

s/Dulce J. Foster
Dulce J. Foster
United States Magistrate Judge